

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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UNITED STATES OF AMERICA, : Case No. 1:20-cr-00142-1
:
Plaintiff, : **Jury Trial, Day 5**
: Monday, June 27, 2022
- v - :
: 9:00 a.m.
ALEXANDER SITTENFELD, a/k/a :
"P.G. Sittenfeld," :
:
Defendant. : Cincinnati, Ohio

* * *

EXCERPTED PROCEEDINGS - TESTIMONY OF ROB MILLER

BEFORE THE HONORABLE DOUGLAS R. COLE, DISTRICT JUDGE

* * *

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MILLER - DIRECT

1 P R O C E E D I N G S

2 (In open court at 3:47 p.m.)

3 * * *

4 THE COURT: Does the government intend to call
5 another witness?

6 MS. GLATFELTER: Yes, Your Honor. We call Undercover
7 Agent Rob Miller.

8 THE COURT: And ladies and gentlemen of the jury,
9 this would be another witness who will be testifying pursuant
10 to the name that was used during the investigation.

11 (Government witness, ROB MILLER, sworn.)

12 DIRECT EXAMINATION

13 BY MS. GLATFELTER:

14 Q. Good afternoon, sir.

15 A. Good afternoon.

16 Q. Can you please state and spell your undercover name.

17 A. Rob, R-o-b.

18 Q. And Miller as well?

19 A. Yes. Miller, M-i-l-l-e-r.

20 Q. Are you currently employed, sir?

21 A. I am, by the Federal Bureau of Investigations.

22 Q. And in what capacity do you work there?

23 A. I'm a supervisory special agent.

24 Q. Does that mean that you hold a supervisor position?

25 A. That's correct.

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1 Q. Have you worked for the FBI for more than ten years?

2 A. I have.

3 Q. And what did you do before the FBI?

4 A. I was an officer in the United States Army.

5 Q. Now, during your career at at FBI, have you worked as an
6 undercover FBI agent?

7 A. Yes, I do.

8 Q. And can you explain to the jury the difference between a
9 case agent and an undercover agent?

10 A. Sure. An undercover agent is an employee. It's either a
11 special agent with the FBI or a task force officer. Some of
12 our local law enforcement become certified FBI undercovers.

13 And we are used in an FBI investigation when the case
14 agent that's running the case determines that they want to use
15 the undercover technique.

16 Q. Okay. And you referred to "case agent." Have you served
17 as a case agent before?

18 A. Yes, I have.

19 Q. When you're in the role of case agent, what are your
20 duties?

21 A. So as a case agent of an investigation, you are
22 responsible for -- you own that case. It is your
23 responsibility to decide the direction of that case, what
24 evidence you're trying to collect, the direction of it, and
25 what you do in furtherance of that investigation.

1 Q. You referred to an undercover operation as a "technique."
2 What did you mean by that?

3 A. In an investigation, a case agent has the option of using
4 a lot of different techniques in their investigation. They
5 can use historical records. They can use interviews. They
6 can use search warrants. They can use Title III, wire
7 intercepts of telephones. And an undercover operation is just
8 another technique that a case agent can choose to use in the
9 operation or in an investigation.

10 Q. I'm sorry. Can any FBI agent become an undercover?

11 A. Yes. It's an open canvas that you can apply to, go to
12 the certification course.

13 Q. And in order to operate, you need to pass the
14 certification course?

15 A. That's correct.

16 Q. Have you earned that certification?

17 A. Yes, I have.

18 Q. And you've been involved in undercover operations since
19 obtaining that certification?

20 A. Yes, I have.

21 Q. Can you tell the jury, over the course of your career at
22 FBI, how many undercover operations you've been involved in?

23 A. I would estimate that I've been involved in over 30.

24 Q. Okay. And how many of those have involved public
25 corruption investigations?

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1 A. That I had a role in, probably 10 to 12.

2 Q. Okay. Generally, how many undercover operations are you
3 involved in at a particular time?

4 A. It varies. There's times where there's zero, and there's
5 been times where I've been involved in as many as four at one
6 time, so...

7 Q. When you're involved in multiple at one time, how does
8 that affect your schedule?

9 A. It's a balancing act, because the undercover program is,
10 for the most part, considered a collateral duty. So most of
11 the agents who work undercover also work as normal case
12 agents, so it is a balancing of their case work and their
13 undercover work. So it's a lot of scheduling, and trying to
14 make sure it works with when you can be at the place that you
15 need to be at any given time, so...

16 Q. So you mentioned that you are a supervisory special
17 agent; is that correct?

18 A. That's correct.

19 Q. That's the right terminology?

20 A. Yes.

21 Q. And what particular area do you supervise?

22 A. So I work in the undercover section for FBI headquarters
23 now in backstopping. So the backstopping unit for
24 headquarters, they provide undercovers with everything to try
25 to make that undercover look real.

1 That includes their alias identifications, their
2 businesses, their bank accounts, their phones sometimes, their
3 cars; whatever may be necessary to help bolster that
4 undercover's persona.

5 Q. And so you supervised that unit?

6 A. I'm one of the supervisors in that unit.

7 Q. Okay. And you mentioned collateral duties before. So
8 that's your day job, so to speak, and you're doing the
9 undercover work in addition to that?

10 A. I am, correct.

11 Q. Now, how do you become involved in a specific undercover
12 operation?

13 A. The primary mechanism is every FBI field office has an
14 undercover coordinator. Those undercover coordinators meet
15 with the case agents when they decide to start an undercover
16 operation as part of their case.

17 And that undercover coordinator will work with the
18 undercover section to draft what is called a canvas. And that
19 canvas goes out to every undercover coordinator in the FBI
20 that gives kind of a general here's the type of case, here's
21 the type of person they're looking for, here's kind of the
22 general time commitment that they're estimating, and then it
23 gives a point of contact for the case agent.

24 Then the individual undercovers receive those, and they
25 can reach out directly to the case agent and have that

1 conversation to see, hey, is this the right person that the
2 case agent chooses to work their investigation.

3 Q. And you mentioned the term "backstopping" before. Can
4 you explain to the jury what the purpose of the backstopping
5 is?

6 A. Sure. It's to try to -- I mean, obviously, undercovers
7 are not who they are portraying themselves to be when they
8 walk in and meet with the subject of an investigation.

9 So depending on what they need to look like, and the
10 persona they need to present to the subjects and the people
11 they meet will determine what we do as far as backstopping,
12 including, like, where they're from, what their driver's
13 license, where it's from, what kind of car they're driving.
14 All those type of things go into it.

15 Q. And does that even include things like credit cards in
16 the name of your undercover identity?

17 A. Yes. Absolutely.

18 Q. Okay. Let's say that you are in town for a multiday
19 operation. How long do you stay in your undercover persona
20 during that operation?

21 A. For -- it is case dependent, but for -- especially in a
22 sensitive case. In a long-term case, usually, you stay in
23 role the entire time you are at the location that you're doing
24 undercover work.

25 Q. So can you describe to the jury, as a practical matter,

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1 what that means when you're coming into a place for an
2 undercover operation that's going to last a couple of days?

3 A. Sure. So from the time of whatever airport I am flying
4 out of, I am flying out as my alias identification.

5 So I'm flying out as Rob Miller. I have Rob Miller's
6 driver's license. I'm going through security and TSA as Rob
7 Miller. I'm using Rob Miller's credit card to book my plane
8 ticket. Rob Miller is checking into the hotel. Rob Miller is
9 ringing the car. Rob Miller is buying gas for that car.

10 Rob Miller is going to Starbucks to get coffee in the
11 morning. And Rob Miller is the same person on the way out,
12 until I get back to my residence and then switch back.

13 Q. Okay. Well, why is it that you don't cut that off --
14 let's say your meeting ends, and your example, you go to
15 Starbucks afterwards. How come you don't just switch out at
16 that time period?

17 A. It's -- well, two reasons. One is, you normally don't
18 have your other identifications and things with you, first of
19 all, because you're going through security under your alias.

20 But the main reason is you never know who you're going to
21 run into, who you're going to meet, especially in a long-term
22 investigation that you know is going -- or is expected to go a
23 long period of time, you just don't know who you're going to
24 meet or run into, so it could compromise the investigation by
25 trying to switch back and forth, and being one person the time

1 you walk into Starbucks and the next time being a different
2 person, so...

3 Q. At the same location?

4 A. Correct.

5 Q. Okay. Now, are there skills that you work to cultivate
6 as an undercover agent, just basic skills, I mean?

7 A. Yes.

8 Q. What are those?

9 A. Well, you know, the undercover has to be able to build a
10 relationship with the subjects and investigation, so a lot of
11 that is what we would consider rapport building or
12 ingratiation, building that level of trust.

13 A lot of it is, you know, you are constantly trying to
14 read that person and determine whether they are believing you,
15 whether you have an issue. So it's a lot of reading the
16 person, developing them, trying to figure out their habits,
17 their likes, and building your plan to kind of mirror what you
18 think they like.

19 Q. Okay. And what about active listening?

20 A. That's huge.

21 Q. Can you describe how that plays in?

22 A. Sure. I mean, active listening is not only listening,
23 but it's taking in what they're saying and responding.

24 So if you, for instance, hear them say that they have a
25 very tight schedule and they've got to be home, then you know,

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1 when you ask them for the next meeting, that you're going to
2 schedule it somewhere that's convenient for them. Those type
3 of things that you're constantly listening, okay, what's going
4 to increase my chances that I will have the next meeting with
5 the subject of this investigation to keep it going and to
6 continue to build that relationship.

7 And a lot of that is you're constantly having to listen
8 to what they say and apply that to what your plan is going
9 forward.

10 Q. And as an undercover, is it your job to prove the
11 allegations in an investigation?

12 A. As an undercover, our job is to collect evidence or
13 collect intelligence, depending on the type of case.
14 Sometimes what we end up collecting actually proves that there
15 is not a crime being committed, or at least not one that we
16 can prove.

17 So we go in, like I said, to collect evidence and to
18 collect intelligence.

19 Q. Now, how are undercover agents introduced in an
20 investigation?

21 A. It depends. It's normally -- well, I wouldn't say
22 normally. It can go both ways, as an introduction from a
23 confidential human source, or what's commonly referred to as a
24 source, meaning that there is someone who is cooperating with
25 the FBI or with local law enforcement that somehow has access

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1 or can make an introduction to the subjects, and that person
2 inserts or helps introduce the undercovers into the case.

3 Sometimes that may mean they just simply make a phone
4 call to set up a meeting, or it could be as much as that
5 person is your partner for the next year in that
6 investigation.

7 On the other side of that is what we would consider going
8 in cold, and that's where the undercover has to truly just
9 initiate the relationship, with no introduction from someone.

10 Q. Have you done both in your career as an undercover?

11 A. Yes, I have.

12 Q. Now, a few minutes ago, you mentioned collecting evidence
13 as your primary duty. How do you collect that evidence in an
14 undercover investigation?

15 A. Primarily collected through the recordings that we make,
16 both audio and audio/video recordings when we're meeting with
17 subjects.

18 Q. So in terms of these meetings, who decides if a meeting
19 occurs?

20 A. The case agents.

21 Q. And what about the location of a meeting, how do you
22 figure out where a meeting will take place?

23 A. Twofold. I mean, primarily, the case agent has told us
24 where they want the meeting to happen, and part of that would
25 depend on what we're hoping occurs at that meeting or what the

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1 plan is for -- the case agent has laid out for that next
2 meeting, because what factors into that is our ability to make
3 a recording, whether we need to set up audio/video recording
4 equipment or just audio.

5 So a lot of that will factor into where we have a
6 meeting; but, ultimately, that's the case agent's decision as
7 to where meetings occur.

8 Q. And you mentioned sometimes it's driven by the subject of
9 the investigation?

10 A. It is. It is.

11 Q. And can you explain what you mean by that?

12 A. Sure. If a subject has -- like the example I gave
13 earlier, if we know that they particularly like a certain
14 restaurant, or they -- a certain area of town is more
15 convenient or less convenient for them, then we will try to
16 suggest a meeting happen somewhere that's convenient for them
17 so that they are less likely to cancel on us or not show up
18 or, you know, they show up and be rushed. We want to maximize
19 the amount of time and opportunity we have when we're meeting
20 with subjects.

21 Q. So we talked about location. How about how often are the
22 frequency of meetings? Who makes that decision?

23 A. The case agent. Again, the case agent monitors
24 constantly, you know, every meeting we have. The case agent
25 goes back and analyzes what happened at the previous meeting,

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1 and then they develop the plan for, okay, here's what we want
2 to do next, here's when we want to do that. And so it's part
3 of their overall plan is when they tell us to come into town.

4 Q. Okay. And for these meetings, do you prepare for the
5 meetings?

6 A. We do. The case agent will kind of give us a -- because
7 there's a lot of other pieces of the case happening, other
8 than the undercover operation, which we don't know about.

9 And so the case agent only tells us the pieces he feels
10 like we need to know, and how our piece fits into that overall
11 puzzle of the case that he's investigating.

12 So something may -- for instance, if we talked about
13 being introduced by a source, that source may have a meeting
14 that I need to know about because of something that happened,
15 so the case agent may tell me that information so that we talk
16 about the plan for my next meeting.

17 Q. Okay. And on the flip side, are there times where it's
18 better to go into a meeting and not know all of the things
19 happening in the case?

20 A. There are. There are times that the case agents don't
21 tell us information, and they shouldn't, because it would
22 be -- we don't want to respond unnaturally, what makes sense
23 for us to know something.

24 So if a subject says something, and I don't respond like
25 a normal person who just heard that for the first time, it can

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1 be very -- it can be a very big telling sign to the subject
2 that, hey, something's not right here, like why would he know
3 that? Why did he respond that way?

4 So there are pieces that the case agents intentionally
5 don't tell us because it wouldn't be natural for us to know
6 that information.

7 Q. Before a meeting, do you have a script, like a movie?

8 A. No. We do not have a script.

9 Q. Why not?

10 A. Again, because we want the conversation to be very
11 natural. So the case agent, prior to a meeting, will tell us
12 the objectives or what information he is trying -- he wants us
13 to -- the evidence he's trying to collect, or intelligence
14 that he's trying to gather, and we will formulate our own plan
15 of how we say that.

16 It's not like we go through a script of, okay, and then I
17 say X, Y, and Z, because that would come off every
18 unnaturally.

19 Every undercover kind of has a different style and a
20 different way they talk, and so for someone to write a script
21 for you would come across as very unnatural.

22 Q. Who makes decisions about when the undercover operation
23 ends?

24 A. The case agent and their management above them, as far
25 as -- and in cooperation with the prosecutors of the case,

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1 depending on what type of case it is. They decide, hey,
2 either the undercover operation is not gaining any evidence of
3 any intelligence value, and so we're going to shut it down.

4 They can say we have collected everything that we think
5 we need to collect and want to collect through the undercover
6 technique.

7 Or they can say, hey, we've decided to go a different
8 route. We're going to use a different technique and,
9 therefore, we're shutting this operation down.

10 Q. That's a conversation that occurs without you, right?

11 A. Correct.

12 Q. All right. Let's talk about this investigation. At some
13 point, did you become involved in an undercover operation
14 involving Mr. Sittenfeld?

15 A. Yes, I did.

16 Q. At that time, were you involved in other investigations
17 in the area?

18 A. I was.

19 Q. Okay. And did you pivot to this at the case agent's
20 direction?

21 A. Yes, we did.

22 Q. Can you describe to the jury what your undercover persona
23 was or was supposed to be?

24 A. Sure. Myself and another undercover were posing as
25 investors that were working with a confidential human source.

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1 The source was doing a real estate development project, and we
2 were helping finance that project.

3 Q. And what did you do to convey that information to others?

4 A. We -- I mean, we live that persona. We make sure we try
5 to present ourselves as investors. We -- obviously, the
6 source was huge, in that by he kind of bolstered that and told
7 everyone that we were backing his project, and that we had the
8 financial capabilities to do so. And then we, again, try to
9 live that persona to make them see us in that light, so...

10 Q. Okay. Along those lines, where did you stay when you
11 were in town for this operation?

12 A. Initially -- we ended up getting an apartment at the
13 580 Building, but we initially started, when we were working
14 the other investigations, we were still staying in hotels in
15 Cincinnati.

16 Q. All right. You said -- and you mentioned the
17 580 Building?

18 A. Yes.

19 Q. At some point, did you begin staying there?

20 A. We did. We ended up -- the case agent thought that it
21 would be a better idea for us to get an apartment at the
22 580 Building.

23 Q. And what, if any, steps did you take regarding the 580 to
24 sort of make it official, make it your place to stay?

25 A. We looked at several locations around Cincinnati as

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1 potential undercover apartments, and we toured them, just like
2 anybody else that would look for an apartment. We went and
3 met with the building managers in our AFIDs, in our alias IDs,
4 and ended up signing a lease for that unit under my alias ID.

5 Q. And when you use "AFID," what do you -- do you use that
6 term?

7 A. Yeah. It's alias faults identification is the
8 abbreviation for AFID. It is what we call our alias driver's
9 license or ID.

10 Q. Now, you said you were staying at the 580 Building.
11 Where did you stay when you were off duty, so to speak?

12 A. Once we had the apartment at the 580 Building, we always
13 stayed at the 580 Building. We didn't -- it would look very
14 odd for us to go check into another hotel.

15 We wanted to seem like we -- the point of having the
16 apartment there was to make it look like we were really
17 committed to doing long-term work in the Cincinnati area and,
18 therefore, we wanted to have a presence there and be seen, so
19 we stayed there. Once we had the apartment, we always stayed
20 there.

21 Q. And was there any danger of compromising the
22 investigation if you stayed at a hotel after renting the
23 580 Building?

24 A. In our opinion, definitely. It could compromise, and it
25 could -- again, it's all those little things that if someone

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1 sees you checking into the Marriott or the Hilton, and they
2 know that you have an apartment, it doesn't make sense. Why
3 would you be checking into another hotel, so...

4 Q. Now, when you were in Cincinnati, how did you communicate
5 with people?

6 A. I had a covert cell phone.

7 Q. Like an undercover phone?

8 A. Yes.

9 Q. How did you obtain that?

10 A. I went and purchased it covertly. So I purchased it,
11 again, in my covert identification, and the service was
12 through my covert identification.

13 Q. Have you heard the term a "consensual T3"?

14 A. Yes.

15 Q. What does that mean?

16 A. So -- I'll back up with just saying what a T3 is. A
17 Title III, or intercept, is what the FBI uses to monitor the
18 telephone calls and text messages to a particular number.

19 Normally, to get that, you have to have a court order if
20 you're doing it on the subject in an investigation.

21 What we in -- the FBI does for informants and for
22 undercovers is we do what's called sometimes a consensual
23 Title III, which means we are signing a piece of paper that
24 either goes to the court or to the phone company that says we
25 are allowing the FBI to monitor all of the communications,

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1 phone calls, or text messages to that particular phone number.

2 And so it's just a mechanism so that if a subject calls
3 your undercover phone, or your -- or texts you, that's
4 automatically captured through an electronic system, versus
5 having to use like a handheld recording device.

6 Q. So you said it was -- it's captured in an electronic
7 system. Is that so a case agent can access it while you're
8 working?

9 A. They can access it while we're working, they can access
10 it while we're out of town. If a subject calls me, and I'm
11 not in Cincinnati, the case agent immediately can go to the
12 system and review that call or text message.

13 Q. All right. As a supervisory FBI agent, I'm not sure I
14 used the right term there, what did you say to call it?

15 A. Yeah, supervisory special agent.

16 Q. So supervisory special agent, do you also have --
17 separate and apart from your undercover phone, do you also
18 have a work phone, like an FBI work phone?

19 A. Yes.

20 Q. Can you explain the difference to that to the jury?

21 A. Sure. Every FBI agent has a phone that is issued by the
22 FBI that is for their official use for communication with
23 work. That means your official FBI email, load stuff on.

24 So that is -- you cannot use that phone when you're doing
25 covert activities because, again, if you give the subject or

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1 anyone your phone number, and they run that, it's going to
2 come back associated with the FBI.

3 If they have -- you know, in this day and age, even your
4 Marriott rewards point number is tied to your cell phone
5 number. So those things all have to be kept separate, and
6 they can't overlap, or else it could compromise an
7 investigation or compromise your alias identification.

8 Q. And what about just the appearance of the phone. I mean,
9 do you have a banner on your FBI work phone that says this is
10 the FBI, don't access?

11 A. Well, there's a -- if you open up an FBI work phone, and
12 you don't have the code, it says if you found this phone, dial
13 202-324-1500, which is the FBI help desk, so yeah.

14 Q. Okay. So if you are on an undercover operation, and you
15 had that FBI phone, could that compromise the investigation?

16 A. Sure.

17 Q. So what do you do to cope with that situation when you're
18 in town for an undercover operation?

19 A. When I'm working operationally, I only have my covert
20 operational phone with me.

21 Q. Does that extend to your office, so to speak? When
22 you're in town to do an undercover operation at a different
23 location than your home office, do you go to the local FBI
24 office?

25 A. No.

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1 Q. And why not?

2 A. Again, number one, I don't have FBI credentials that
3 would get me into the FBI, first. And the second part is you
4 don't want to be seen going or coming from those locations.

5 Q. So the 580 Building was your central location, for all
6 intents and purposes, when you're in town?

7 A. Correct.

8 Q. Now, when did you first meet the defendant?

9 A. Originally, I met him for a brief meeting in February
10 2018.

11 Q. Can you briefly describe the context of that meeting?

12 A. We were -- had an individual in Cincinnati that was
13 introducing us to a lot of people. At that time,
14 Mr. Sittenfeld was not a subject of the investigation, as far
15 as the undercover portion went.

16 This individual would line up dinner with numerous
17 elected officials in the Cincinnati area, and Mr. Sittenfeld
18 was one of the people that came by the restaurant that night
19 and was introduced to us.

20 Q. Okay. And did that change? Did you start working on an
21 undercover operation related to Mr. Sittenfeld?

22 A. Yes, we did.

23 Q. And about what time period was that?

24 A. The next time I met Mr. Sittenfeld was in November of
25 2018.

MILLER - DIRECT

1 Q. And what were the circumstances of that meeting?

2 A. The case agents had notified us that their source that
3 was working the case had been requested to make a donation to
4 Mr. Sittenfeld, and he was working on the approval of the
5 435 Elm project, and they wanted us to go and meet with
6 Mr. Sittenfeld.

7 Q. So going into the meeting, you were aware of those
8 previous phone calls with the source?

9 A. Yes.

10 Q. Now, who attended the lunch that you went to?

11 A. It was myself, the source, Chin, and Mr. Sittenfeld.

12 Q. And I apologize if I didn't hear it before, where did the
13 meeting take place?

14 A. The lunch was at Nada, which was directly across the
15 street from the 580 Building.

16 Q. And I assume Nada is a restaurant?

17 A. Yes.

18 Q. Okay. Did you record this meeting at Nada?

19 A. Yes, we did.

20 Q. And were you limited to audio, or were you able to do
21 video at that meeting?

22 A. The meeting, the portion that happened at Nada, was audio
23 only. And then from when we finished at Nada, myself and
24 Mr. Sittenfeld walked across the street to the 580 Building,
25 to our apartment, and in that location we had audio and video

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1 set up.

2 Q. What, if anything, did Mr. Sittenfeld bring to the
3 meeting?

4 A. To the meeting at Nada, he had a laptop computer with
5 him, which he showed me several slides demonstrating where he
6 felt he stood in the future mayor's race in Cincinnati.

7 Q. So he came to the meeting prepared?

8 A. Yes.

9 Q. Now, did the meeting with Mr. Sittenfeld end at the
10 restaurant?

11 A. No, it didn't. We moved across the street to the
12 580 Building.

13 Q. When you say "we," who are you referring to?

14 A. Myself and Mr. Sittenfeld. The source, Chin, did not go
15 with us from the restaurant to the apartment.

16 Q. What happened -- generally speaking, what happened when
17 you got there?

18 A. Pretty quickly, as soon as we -- I generally showed him
19 around the apartment. It was the first time he had been in
20 there, and we immediately went to -- I told him that Chin had
21 told me that he wanted to give Mr. Sittenfeld \$20,000.

22 MS. GLATFELTER: All right. Your Honor, at this
23 time, I ask the Court's permission to publish a portion of
24 Exhibit 15C, which is already admitted into evidence. It's a
25 recording.

MILLER - DIRECT

1 THE COURT: You may do so.

2 MS. GLATFELTER: And we're going to play from the
3 beginning until 2:12.

4 (Video played.)

5 Q. All right. The audio and the video were a little off in
6 this clip that we saw, right?

7 MS. GLATFELTER: And if I may ask my cocounsel, or
8 let me ask Ms. Terry, what is the number of the exhibit for
9 the actual video clip without the transcript, can you tell me?

10 MS. TERRY: I believe 15B.

11 MS. GLATFELTER: 15B. All right. And 15B is in
12 evidence, but I won't replay it here. I don't want to waste
13 everyone's time here.

14 Q. Do you recall this meeting?

15 A. I do.

16 Q. And where did this portion occur?

17 A. That is inside the apartment that I rented at the
18 580 Building.

19 Q. Who was present for the meeting?

20 A. Myself and Mr. Sittenfeld.

21 Q. Now, after this meeting, did you meet in person with
22 Mr. Sittenfeld again?

23 A. After this meeting?

24 Q. Uh-huh.

25 A. Yes. Multiple times.

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1 Q. Okay. And did you meet with him on November 28th of
2 2018?

3 A. Yes, I did.

4 Q. What was the purpose of that meeting?

5 A. Originally, at that first meeting, the -- we originally
6 said we were going to give him \$20,000. At the first meeting,
7 I only had \$10,000, which was in cash.

8 Mr. Sittenfeld wanted it in a different format. He
9 wanted it -- he had called me and told me to make it into a
10 check.

11 At one point, we discussed money orders. And he came
12 back and corrected me and said, hey, I want it in a check from
13 an LLC. And so the purpose of this meeting was to give him
14 two \$5,000 checks from LLCs.

15 Q. All right. And where did this meeting occur?

16 A. This meeting also happened in the apartment at the
17 580 Building.

18 Q. And who was present for that?

19 A. That meeting was myself, another undercover, and
20 Mr. Sittenfeld.

21 Q. Who was the other undercover?

22 A. Brian.

23 Q. And what role did Brian have in this operation?

24 A. Brian was essentially my business partner, so he was --
25 had the same role I had, as an investor in the project, or

1 financier of the project.

2 Q. Did this meeting relate to the meeting that we just saw
3 on November 7th?

4 A. Yes.

5 MS. GLATFELTER: Your Honor, permission to publish a
6 portion of Exhibit 20C, which has been already admitted into
7 evidence?

8 THE COURT: You may do so.

9 (Video played.)

10 Q. While it's paused, can you identify who we're seeing on
11 the screen?

12 A. That is myself on the right, and Mr. Sittenfeld in the
13 center of the screen.

14 Q. All right. And during this meeting, after this portion
15 about the voting, did you give anything to Mr. Sittenfeld?

16 A. Yes. I gave him two checks for \$5,000 each.

17 Q. And were the form of the checks, as far as you knew, in
18 the format that Mr. Sittenfeld had requested?

19 A. Yes.

20 Q. Was there a problem with the checks that you learned
21 later?

22 A. Yes, there were.

23 Q. Can you describe that to the jury?

24 A. Sure. Mr. Sittenfeld told me to make the checks out to
25 the Progress and Growth PAC, which we did, and that they had

1 to be from registered LLCs.

2 The problem, the checks, the bank accounts that the
3 undercover unit sent us were actually from registered
4 corporations, not from LLCs and, therefore, I did not know
5 that at the time.

6 Mr. Sittenfeld called me, after he took those checks, and
7 let me know that the person that he had given the checks to
8 looked them up on the Secretary of State's website, and they
9 were actually registered corporations, not LLCs.

10 Q. All right. And at that time, when you found out that
11 these were the wrong checks, what did Mr. Sittenfeld request
12 that you do?

13 A. Just that we correct the checks and send him checks that
14 were from LLCs.

15 Q. Okay. Not take back the checks, or turn down the checks,
16 but just change the checks?

17 A. Correct.

18 Q. All right. Did you meet again with Mr. Sittenfeld to do
19 that?

20 A. We did.

21 Q. And when was that meeting?

22 A. It was in the middle of December.

23 Q. What was the purpose of that meeting?

24 A. It was to replace the previous two we originally -- the
25 first meeting in November, the original amount was \$20,000.

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1 Up until that point, we had only given him \$10,000. And the
2 \$10,000 we gave him were in checks that were in corporations,
3 not LLCs.

4 So the purpose of this meeting was to give him the total
5 \$20,000, which were going to be four checks for \$5,000 each,
6 all from registered LLCs.

7 Q. And was the format of those checks in -- strike that.

8 The checks that you presented, were they in the format
9 that Mr. Sittenfeld had requested?

10 A. Yes. These four checks were made out to the PAC, as he
11 had requested. They were \$5,000 each, and they were from
12 registered LLCs.

13 Q. Who was present for this meeting in December?

14 A. The meeting in December, again, was myself, the other
15 undercover, Brian, and Mr. Sittenfeld.

16 Q. Now, how many times had you met with Mr. Sittenfeld in
17 person at this point?

18 A. At this point, I had met with him -- this was the fourth
19 meeting in person.

20 Q. And fourth includes that time in February of 2018 that
21 you met him briefly?

22 A. That's correct.

23 Q. Now, leading up to this meeting, did you communicate with
24 Mr. Sittenfeld?

25 A. Yes.

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1 MS. GLATFELTER: Your Honor, permission to publish
2 Exhibit 21E, which are text messages that have already been
3 admitted into evidence?

4 THE COURT: You may do so.

5 Q. Sir, can you take a look at Exhibit 21E?

6 A. Yes.

7 Q. Do you recognize those messages?

8 A. I do.

9 Q. And what are they?

10 A. They're the text message correspondence between myself
11 and Mr. Sittenfeld.

12 Q. Okay. And which side of the page are your messages
13 depicted on?

14 A. My messages are in blue.

15 Q. And can you read us the first four?

16 A. Both sides of the conversation?

17 Q. Yes. I'm sorry. That was vague.

18 A. I said: "I will be there on Monday."

19 Mr. Sittenfeld said: "Great. Drink after work or after
20 dinner?"

21 I said: "Whichever one works for you."

22 Mr. Sittenfeld replied: "How about 5:30, Ruby's? Sotto?
23 You tell me."

24 I replied: "Let's do Sotto. Drinks or dinner?"

25 Q. All right. Earlier in your testimony, we had talked

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1 about how a location might be selected for a meeting. How did
2 these text messages relate to that?

3 A. They gave us an indication of when Mr. Sittenfeld would
4 be available, and where he would like to meet us, what would
5 be convenient for him.

6 Q. And based on these text messages, where did he suggest to
7 have the meeting?

8 A. Ruby's, which refers to Jeff Ruby's restaurant, or Sotto.
9 Both of those are on the same street and in the same general
10 area, downtown Cincinnati.

11 Q. And did you choose one of the locations that
12 Mr. Sittenfeld had suggested?

13 A. We did. I said: "Let's do Sotto."

14 MS. GLATFELTER: Okay. Your Honor, permission to
15 publish a portion of Exhibit 21F, which has already been
16 admitted into evidence?

17 THE COURT: You may do so.

18 MS. GLATFELTER: Thank you.

19 (Video played.)

20 Q. Sir, do you see the video on your screen?

21 A. Yes.

22 Q. And can you identify who we're seeing in the video at
23 this point?

24 A. Right now in the video, you're looking at Brian's back
25 and Mr. Sittenfeld's to the right.

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1 Q. Okay. And were you pictured in the video earlier?

2 A. I was.

3 Q. What was the paper that you handed to Mr. Sittenfeld?

4 A. So I handed him four checks for \$5,000 each. And then
5 one of the checks, the bank account still said -- the name of
6 the company said, I think it said C2 or C3, Inc. But I gave
7 him the paperwork from the Secretary of State website, showing
8 that the company was actually registered as an LLC, the
9 account name just had not been changed.

10 Q. Now, after this interaction -- you said it was when?

11 A. This was in December.

12 Q. So after December, did you stay in contact with
13 Mr. Sittenfeld in the early part of 2019?

14 A. Yes, I did.

15 Q. Okay. And can you give us some examples of the type of
16 contact that you had with Mr. Sittenfeld in, you know, the
17 winter and early spring of 2019?

18 A. Sure. Any time I would -- there would be something that
19 would happen with the project, as far as the source, whether
20 he had a meeting or anything, I would usually -- either I
21 would initiate it and text Mr. Sittenfeld, and sometimes he
22 would initiate it and update me on the status of the project
23 at 435 Elm.

24 Q. Okay. So you had some phone contact?

25 A. Yes.

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1 Q. Did you also meet in person?

2 A. We did.

3 Q. Okay. And during these times that you met in person, can
4 you briefly describe the type of discussion that you would
5 have about 435 Elm?

6 A. Which time frame? Where are we at on the time?

7 Q. I'm sorry. My question was vague. In this early time
8 period of 2019, from January to, let's say April, when you
9 would meet with Mr. Sittenfeld, would you talk about 435 Elm?

10 A. Yes.

11 Q. Okay. And what are the types of things -- can you give
12 the jury some examples of the types of things that you would
13 talk about?

14 A. Mostly, at that point of it, it was the status of the --
15 Chin, the source, was trying to work out a development
16 agreement with the city.

17 And so it was usually the status, or what meetings he had
18 recently had, or what changes had happened since the last time
19 we had spoken, as far as the status of that project

20 Q. And during these meetings, was he providing information
21 to you about the 435 Elm status?

22 A. Yes.

23 Q. Now, at some point during the spring, was there any
24 discussion of transferring the property?

25 A. There was.

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1 Q. Okay. Can you explain what happened to the jury?

2 A. Sure. The property was under the control of the City of
3 Cincinnati, and the discussion was it was going to actually be
4 under the control, or transferred from the city to the Port of
5 Cincinnati, and they would then be the entity that would be
6 controlling a development agreement with a future developer.

7 And so there was a lot of discussions on if that was
8 going to happen, and what our thoughts were about that
9 happening.

10 Q. Okay. Do you recall anything of investigative
11 significance that happened on June 25, 2018?

12 A. I received a -- or I had a phone call with Mr. Sittenfeld
13 where he discussed that project being moved over to the port,
14 and asked me my thoughts on if I was okay with that happening.

15 Q. And what did you tell him?

16 A. Yes. We felt that that was in our best interest.

17 Q. Were there any technical difficulties with this phone
18 call?

19 A. Yes. So like we spoke about earlier, the consensual
20 Title III is designed to capture all the incoming calls and
21 outgoing calls to that phone number.

22 On this date, I believe it captured the initial part of
23 the call, but then I was notified after the call from the case
24 agent, when he went and reviewed it, that there was a
25 technical issue and, for whatever reason, the remainder of

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1 that call was not captured.

2 Q. All right. So at the time, you didn't even know that the
3 phone call didn't record?

4 A. No. I have no ability to turn on or off the recording to
5 that phone number.

6 Q. All right. And so what actions did you take regarding
7 that situation?

8 A. So when I was notified, I went back and wrote FE 302 in
9 the case management system for the FBI that documented the
10 correspondence during that phone call.

11 MS. GLATFELTER: Okay. Your Honor, may I approach
12 the witness to show him what's been marked as USA 27C?

13 I will not be asking for the admission, but I want to
14 make sure we're talking about the same document.

15 THE COURT: So you just want him to identify it?

16 MS. GLATFELTER: Yes.

17 THE COURT: You may do so.

18 Q. Was this the report that you talked about documenting the
19 phone call in?

20 A. Yes.

21 Q. Okay. And did you have a chance to review that before
22 your testimony today?

23 A. Yes, I did.

24 Q. And do you recall when this was documented in relation to
25 the phone call?

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1 A. The -- I think I drafted it the day after the phone call.
2 I'd have to look at the actual -- it was either a day or two
3 days after the phone call. I can't remember exactly.

4 Q. How about I bring it to you and make sure.

5 A. Sure.

6 MS. GLATFELTER: Your Honor, may I approach again?

7 THE COURT: You may.

8 Q. Here, I can take it back when you're done.

9 And when did you draft this?

10 A. Two days after. So the phone call was on June 25th, and
11 I drafted it on June 27th.

12 Q. And you said that you were discussing the transfer of the
13 property at the port?

14 A. Yes.

15 Q. Okay. And what did Mr. Sittenfeld ask you?

16 A. He asked me if I was -- if we were comfortable with that,
17 if we were -- basically, if we were okay and supportive of
18 that transfer happening.

19 Q. Okay. And how did you respond?

20 A. Yes. We told him we thought that that was basically in
21 our best interest if that happened.

22 Q. All right. I want to fast forward to the fall of 2019,
23 to September specifically.

24 A. Okay.

25 Q. Did there come a point in time when you met with

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1 Mr. Sittenfeld in Columbus, Ohio?

2 A. Yes.

3 Q. Where did you meet?

4 A. We met at a hotel room. I believe it was a Hilton in
5 Columbus, Ohio.

6 Q. Do you recall who was present for the meeting?

7 A. I do. Myself, two other undercovers, Brian and Vinny,
8 Mr. Sittenfeld, and a member of Mr. Sittenfeld's staff. I
9 don't recall his name.

10 Q. Was there anything of investigative significance that
11 occurred during this meeting?

12 A. During this meeting, we talked extensively about -- the
13 plan for 435 Elm had transitioned to not only a hotel, but
14 also to including a restaurant that would have a sports book,
15 allow sports betting, and that was something that the
16 undercover Vinny was particularly interested in.

17 And during this, it was the conversation of the status of
18 that, and Vinny provided Mr. Sittenfeld with two \$5,000
19 checks, and told Mr. Sittenfeld that I would be delivering two
20 more \$5,000 checks on his behalf in the future.

21 Q. Now, after this meeting, did you have communications with
22 Mr. Sittenfeld?

23 A. I did.

24 Q. Can you describe to the jury the volume of those
25 communications?

1 A. During September and October, compared to our previous
2 correspondence, it was a lot higher volume than we had had in
3 a previous monthlong period, so...

4 MS. GLATFELTER: Your Honor, permission to publish
5 Exhibit 31A, which has been previously admitted into evidence?

6 THE COURT: You may do so.

7 Q. Now, when you said the volume -- I'm going to paraphrase
8 here, but when you said the volume increased during this
9 meeting?

10 A. Yes.

11 Q. Is this an example of the type of communications you're
12 referring to?

13 A. Yes, it is.

14 Q. And were any of the communications that you had after
15 this meeting via text message?

16 A. Yes, they were.

17 MS. GLATFELTER: Your Honor, permission to publish
18 Exhibit 31J, which has previously been admitted into evidence?

19 THE COURT: You may do so.

20 MS. GLATFELTER: Ms. Terry, this is multiple pages,
21 right?

22 MS. TERRY: Yes.

23 Q. So if we can start with the first page. If you can
24 review the contents of the first page, and let me know when
25 you're finished.

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1 A. Okay.

2 MS. GLATFELTER: And the second page, Ms. Terry.

3 A. Okay.

4 Q. Then the next page.

5 MS. GLATFELTER: And you can just leave it right
6 there. Thank you. Oh, can you put that back up on the
7 screen? Sorry. I was going to ask a few questions about
8 that.

9 Q. Now, do these text messages relate to a topic that you
10 had discussed at the September 24th meeting in Columbus?

11 A. Yes, it did.

12 Q. How so?

13 A. At the meeting in Columbus, we had discussed finding a --
14 replacing the source, Chin, with another developer on the
15 435 Elm project.

16 Q. Okay. And on the text message on the screen, which for
17 the record's reference is page 3 of Exhibit 31J, do you see
18 the reference to Dan?

19 A. Yes.

20 Q. Who is Dan?

21 A. Dan is the individual Mr. Sittenfeld thought I should
22 consider partnering with on 435 Elm.

23 Q. As the replacement for Chin?

24 A. Yes.

25 Q. Now, after the meeting in Columbus, did Mr. Sittenfeld

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1 ask you for anything with respect to Vinny?

2 A. He asked me for Vinny's phone number.

3 Q. How did he request it?

4 A. By text message.

5 MS. GLATFELTER: Your Honor, permission to publish
6 Exhibit 32A, which has been previously admitted into evidence?

7 THE COURT: You may do so.

8 Q. And, sir, do you recognize this?

9 A. Yes.

10 Q. What is it?

11 A. This is the correspondence between myself and
12 Mr. Sittenfeld where -- again, Mr. Sittenfeld's on the left,
13 my texts are on the right, where he asked me for Vinny's phone
14 number.

15 Q. And can you read the top text message?

16 A. "Is there a good number to reach Vinny on? Have a quick
17 update for him."

18 Q. And then you respond with a telephone number?

19 A. Yes.

20 Q. Did you have to do anything before you responded with
21 Vinny's telephone number?

22 A. I notified the case agent, and I had to notify Vinny to
23 expect a phone call.

24 Q. Why?

25 A. Vinny -- I did not know where he was, or what his

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1 schedule was, or whether he had his covert phone with him, so
2 I had to make sure he was prepared for it and was available.

3 And I don't know whether he had a consensual Title III on
4 his phone, so the case agents had to make arrangements for
5 however they were going to record that call.

6 MS. GLATFELTER: One moment, Your Honor.

7 Just a few more questions.

8 Q. Mr. Miller, during the time period of this investigation,
9 did you make a mistake in your personal life?

10 A. Yes.

11 Q. Can you just briefly describe that to the jury?

12 A. Sure. I had a personal relationship with someone
13 unrelated to the investigation in Cincinnati that was sexual
14 in nature, which caused an issue for the case as far as
15 reputation goes. And because of that, I received a letter of
16 censure from the FBI.

17 Q. Were you on duty or off duty at the time?

18 A. I was off duty.

19 Q. And is that what the letter you received for?

20 A. Yes.

21 Q. Okay. And what was the title of the -- what was the
22 subject matter of the letter of censure?

23 A. Unprofessional conduct off duty.

24 MS. GLATFELTER: All right. No further questions,
25 Your Honor.

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1 THE COURT: Thank you. Mr. Rittgers?

2 MR. C. MATTHEW RITTGERS: Your Honor, depending upon
3 when the Court wants to break for the day, considering it's
4 almost a quarter 'til.

5 I know I told you I was going to be very brief. It might
6 be a little longer than 15 minutes, so...

7 THE COURT: Why don't we get started and see how it
8 goes.

9 CROSS-EXAMINATION

10 BY MR. C. MATTHEW RITTGERS:

11 Q. Good afternoon.

12 A. Good afternoon.

13 Q. I would like to start with 2017. Were you aware that
14 P.G. had been involved in trying to develop 435 Elm with a man
15 by the name of Ryan Goldschmidt and even Mr. Ndukwe in 2017?

16 A. I didn't know anything about Mr. Sittenfeld or 435 Elm in
17 2017, I don't believe.

18 Q. But during your conversations with Agent Holbrook or with
19 Mr. Ndukwe himself, were you ever told that in 2017, P.G. was
20 working to try to get 435 Elm redeveloped?

21 A. No.

22 Q. Were you told in conversations with Agent Holbrook or
23 with Mr. Ndukwe that Mr. Ndukwe had been a frequent fundraiser
24 for P.G.?

25 A. No. I did not know the status of Mr. Ndukwe's

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1 contributions.

2 Q. Were you aware that he had asked if he could be on the
3 host level of P.G.'s next fundraiser in January of 2018?

4 A. No. I was not aware of that.

5 Q. Okay. When you were speaking with the prosecutor, you
6 talked about your persona?

7 A. Yes.

8 Q. And the persona was that you and Rob and Vinny had money,
9 and you were ready to invest in Cincinnati?

10 A. I was Rob. So Rob, Brian, and Vinny, but yes, sir.

11 Q. I apologize.

12 A. No problem.

13 Q. You and Brian and Vinny had money ready to invest in
14 Cincinnati?

15 A. Yes, sir.

16 Q. And the persona that was definitely told to P.G. was that
17 you had the financial capabilities to support Mr. Ndukwe's
18 435 Elm project?

19 A. Correct.

20 Q. And part of the persona was also that you were a little
21 bit uncomfortable telling your investors that their investment
22 in Cincinnati was safe, without going around and doing due
23 diligence and talking to people, right?

24 A. We told them that we wanted to -- I wanted to be able to
25 tell my investors -- I think the word I used that it was

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1 Cranley proof, referring to the mayor, because he had a
2 problem with Chin, with Mr. Ndukwe.

3 Q. I'm talking at the Nada lunch on November 7th -- by the
4 way, on November 7th at the lunch at Nada, there were no
5 donations discussed at lunch, correct?

6 A. No.

7 Q. And at that lunch, P.G. said he could shepherd the votes,
8 right?

9 A. I'd have to look at the transcript from the lunch.

10 MR. C. MATTHEW RITTGERS: If you could, Scott.

11 Q. This has been marked, sir, as USA 15C. You can see it on
12 your screen, if you'd like. And the reason we know this is at
13 lunch is because Mr. Ndukwe is there, and it's on page 9,
14 right?

15 A. Where are we looking?

16 Q. Here, I'll highlight it. At the bottom, "You know I can
17 certainly shepherd the votes too," right?

18 A. Right.

19 Q. So that was at lunch?

20 A. That was -- if you scroll to the top so I can see. I
21 can't see what --

22 Q. Sure. I'll help you. Mr. Ndukwe didn't go to 580?

23 A. No. Correct. I'm just --

24 Q. You want to know the date?

25 A. Yes, from the transcript, correct. Now I can see the

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1 top, yeah, the date. Yes, sir. Correct.

2 Q. So at lunch, P.G. vetted the project?

3 A. I don't know what you mean by he vetted the project.

4 Q. He asked if there was going to be a hotel that goes on
5 that parcel?

6 A. Right.

7 Q. And a hotel was a big deal for the City of Cincinnati
8 because the Convention Center needed hotel space around it,
9 correct?

10 A. That's what he said, yes.

11 Q. And Mr. Ndukwe said it too. He said it would be huge for
12 the convention, right?

13 A. Correct.

14 Q. And I think you might have agreed at one point, even
15 finishing P.G.'s sentence or Mr. Ndukwe's sentence using the
16 term "Convention Center," correct?

17 A. Correct.

18 Q. And so he also asked about how much money you guys
19 thought you would put in to this problem property, which I
20 believe the response was \$75 million?

21 A. I don't recall exactly what the number was.

22 Q. If you look on your screen, this is the same transcript,
23 page 8. This is Mr. Ndukwe talking about how much money would
24 be in the deal, \$75 million, right?

25 A. That's what Mr. Ndukwe says will be required to develop

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1 the whole project.

2 Q. Sure.

3 A. We don't say \$75 million, but that's what he's saying for
4 the total development cost.

5 Q. Sure. And you guys were his backing. That was your
6 persona --

7 A. Correct.

8 Q. -- for this deal.

9 But before that could happen, Mr. Ndukwe and, in turn,
10 you and Brian, had to do due diligence, so architects, zoning,
11 and Mr. Ndukwe talked about how just the due diligence would
12 be \$1.8 million?

13 A. I don't know the number you showed me on the transcript.
14 I can't confirm that, so...

15 Q. Okay. Do you see that at the bottom, page 6?

16 A. Correct. Yep. I do.

17 Q. So you and Mr. Ndukwe are telling P.G., hey, part of your
18 persona is, I believe, you cut your teeth in real estate
19 development deals out of Georgia, right?

20 A. Correct.

21 Q. And you've been doing real estate development deals for a
22 long time?

23 A. Yes.

24 Q. And you could invest your money anywhere you wanted in
25 any city around the country?

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1 A. Yes.

2 Q. But you were considering Cincinnati?

3 A. Correct.

4 Q. And you were aware, at the time that you were considering
5 Cincinnati -- and this is an actual question. Were you aware
6 the drain that this building had on the city?

7 A. No.

8 Q. You did not know that?

9 A. No.

10 Q. As you sit here today, did you know that that building
11 cost our city, actual dollars, \$400,000 a year in actual
12 dollars?

13 A. I have no idea.

14 Q. You did agree that you talked about the Convention Center
15 to P.G. Did you know the importance that it was strategically
16 for broader tourism in the area?

17 A. Can you rephrase the question? Are you asking me what he
18 told me, or what my understanding was?

19 Q. Yeah. Did you understand that that building, because of
20 the proximity to the Convention Center, that that building
21 impacted broader tourism in the entire region here?

22 A. That topic came up every time we talked about the project
23 with every individual, so...

24 Q. Were you aware that this had been a problem since
25 2000- -- for a decade?

1 A. No.

2 Q. Were you aware that in Cincinnati, the only interested
3 developer in 2018 was Mr. Ndukwe?

4 A. No.

5 Q. Were you aware that this building, 435 Elm, was embroiled
6 in litigation?

7 A. I was aware that there was litigation. My understanding
8 was that the current occupant was also trying to work through
9 developing it, meaning that Mr. Ndukwe would not have been the
10 only person.

11 Q. And when Mr. Ndukwe purchased the air rights from
12 U.S. Bank in 2017, that meant the deal had to go through him,
13 right, he had the air rights?

14 A. He had the air rights, but that did not guarantee a deal
15 had to go through him, was my understanding.

16 Q. Someone would either have to pay him his air rights, or
17 they'd have to partner with him to do a deal. There are two
18 choices, right?

19 A. I don't know the -- I don't know the legal contract of
20 what was on there, or how that would be transferred. I have
21 no idea.

22 Q. How aware were you about the negotiations that Mr. Ndukwe
23 was having with Ms. Brunner, the head of the port?

24 A. From the case agent, we knew generally what Mr. Ndukwe
25 was asking for in his development agreement with the city and

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1 then later with the port.

2 Q. And you're aware that with the port, and this is on some
3 of the recordings, Ms. Brunner was asking Mr. Ndukwe to pay
4 the port \$350,000 a year in ground lease?

5 A. Later. So now we're in --

6 Q. Yeah.

7 A. -- September, October of -- no, actually, that would have
8 been summer of 2019, that time frame.

9 Q. Or fall?

10 A. When it was transferred to the port?

11 Q. Correct.

12 A. Yes. I knew that the original development agreement that
13 Mr. Ndukwe was looking for was a one dollar a year lease, and
14 that number had significantly changed. I don't remember the
15 exact dollar figure.

16 Q. And that was -- Mr. Ndukwe told you that was odd to him.
17 That was unusual that the port would be asking for \$350,000 a
18 year, correct?

19 A. I don't know that Mr. Ndukwe told me that.

20 Q. Let's go back to 2018. When you were -- after P.G. had
21 vetted the project at Nada, asked about a hotel, how many
22 doors the hotel would have, how many square feet of office,
23 how much money you'd have into the deal, which he did do,
24 correct?

25 A. He asked how much it would cost to develop it, yes.

MILLER - CROSS

1 Q. And all the other things I just said, the hotel, how many
2 doors?

3 A. I'd have to review the entire transcript, but he did
4 ask -- we did discuss the project and what the plan was.

5 Q. Okay. He said in that meeting at Nada at lunch that he
6 could shepherd the votes, right?

7 A. Yes.

8 Q. And part of the reason for your being at that lunch was
9 to talk to someone who had a better insight than you did as to
10 whether or not council or the mayor would support a project at
11 435 Elm?

12 A. Are you asking me what my purpose for being --

13 Q. Your persona, yes. Your persona.

14 A. My persona's purpose was to get assurances that we could
15 get the votes to make that project go.

16 Q. And then when you go across the street to 580 --

17 A. Yes.

18 Q. -- the prosecutor highlighted a part at the end where
19 you're talking about trying to get a deal. Do you remember
20 that?

21 A. No. I'm not sure which part you're referencing.

22 Q. All right. I believe it's on the bottom of page 29. Can
23 you see this on your screen, sir?

24 A. Yes.

25 Q. So I believe that this was highlighted on your direct,

MILLER - CROSS

1 "What's the best way, the best way for us to get that deal,
2 you know what I mean, like?" That was you, correct?

3 A. That's me.

4 Q. And P.G. goes back to discussing the development deals,
5 which is what had been discussed for the past hour, including
6 at lunch. He's saying, "Do you know John Cranley is going to
7 veto it?" The development deal is what he's referring to,
8 right, on the veto?

9 A. Yes.

10 Q. And so you're talking about, in your head -- you didn't
11 say it, but in your head, I believe, correct me if I'm wrong,
12 you're wanting to talk about a quid pro quo, right?

13 A. I mean, if you scroll up above that, I say that Chin told
14 me we need to get P.G. \$20,000, and so yes, right after that
15 is when we're discussing that.

16 Q. But you didn't say quid pro quo, did you?

17 A. No. I didn't say quid pro quo.

18 Q. You say "that deal," and P.G.'s response is, "I'm just,
19 do you guys know that he's going to try and veto it?"

20 He's going back to the development deal that you said
21 John Cranley might try to veto, right?

22 A. He asked that question, yes.

23 Q. And he already told you at the lunch that John loves
24 development, and even though he might have some beef with
25 Mr. Ndukwe, he still thinks that John would support a good

1 deal?

2 A. Are you referring to a specific part where he said that,
3 or my inference? I don't know what you're asking.

4 Q. I mean, I can go to each part of the transcript but,
5 repeatedly, P.G. tells you that John Cranley is going to
6 support a good deal, right? He's not going to block a
7 project?

8 A. He says -- I think he refers to something like John
9 Cranley likes guys like you, referring to myself and my
10 business partner, I would assume, and that he did not think
11 that he would -- I don't know that he used the word he won't
12 block the deal.

13 Q. All right. And so this is the quote you're referring to.
14 "John loves guys like you. People who choose to invest here,
15 they believe in it, they're revitalizing," that's what he's
16 referring to, right, revitalizing our downtown urban core?

17 A. Right.

18 Q. And that's after P.G. had asked what it was Mr. Ndukwe
19 and you wanted from the city, right?

20 A. Correct.

21 Q. And you talked about a CRA, right?

22 A. Yes.

23 Q. Which is the Community Reinvestment Act?

24 A. Yes.

25 Q. And the CRA that was discussed in this meeting before

MILLER - CROSS

1 P.G. said, hey, my colleagues will support this, even John
2 Cranley who might not like Mr. Ndukwe would support this, he
3 said he knew that because the CRA was normal, nothing abnormal
4 was competitive, right? That's what he was told?

5 A. I don't understand what question you're asking me.

6 Q. I'm asking you if you recall P.G. vetting, asking
7 questions about what it was that you all wanted from the city
8 for this development deal? Do you remember this conversation?

9 A. Yes.

10 Q. And Mr. Ndukwe told P.G., in this meeting at lunch at
11 Nada, that it was going to be a solid CRA, nothing out of the
12 ordinary, just competitive, right?

13 A. Correct.

14 Q. So P.G. then talks to you and Mr. Ndukwe about the fact
15 that even though sometimes his colleagues, council, might talk
16 a little crazy about CRAs, that if the deal is what you guys
17 have it teed up to be, meaning what you told him, that it's
18 easy to support.

19 And that's when he said, "Yeah, and I can shepherd the
20 votes too," meaning they'll support it too, right?

21 A. I can't agree with that. Like, you're paraphrasing a lot
22 of statements together. I don't know where he said that.

23 Q. All right. Fair to say we hear people all the time,
24 elected officials talking about getting votes, going across
25 the aisle, getting a vote from their left or right? Fair to

1 say we hear that? There's nothing wrong with saying "I can
2 get the votes," correct?

3 A. There's nothing wrong with saying that you support a
4 project, or --

5 Q. Yeah. We have people in our state house and U.S.
6 Congress and Senate that we call majority and minority whips.
7 Whips literally count votes. They're called whips, like
8 whipping the votes, they're logrolling. We do that every day
9 in our American democracy, right?

10 MS. GLATFELTER: Your Honor, I was going to object to
11 the question, because we were waiting for the question for a
12 long time.

13 THE COURT: Right. What's the objection?

14 MS. GLATFELTER: Argumentative.

15 THE COURT: I'll allow it. If you know.

16 A. You'd have to re- -- I don't know where we were with the
17 senate.

18 Q. Saying that you -- having elected officials saying "I can
19 get the votes or shepherd the votes" is something that is a
20 common occurrence that you've heard just by flipping on the TV
21 or the radio, right?

22 A. It's a very common occurrence. It's not associated with
23 a payment.

24 Q. In that condo at the 580 Building on November 7th, you
25 offer P.G. \$10,000 in cash, correct?

MILLER - CROSS

1 A. Correct.

2 Q. He turned it down?

3 A. He wanted it in a different format.

4 Q. He didn't take the cash?

5 A. He did not take the cash.

6 Q. All right. And then he called someone, a compliance
7 person, and asked them questions about how he could accurately
8 report cash, correct?

9 A. I don't know who he called. He called someone and asked
10 can I take cash, and had a conversation about the means of how
11 that \$10,000 needed to be put into the account.

12 Q. And you all left that meeting with the impression, and
13 correct me if I'm wrong, that it could be either in money
14 orders or cashier's checks, I forget what it was, but that
15 that might be something that was permissible by law, correct?
16 Like P.G. was saying, hey, that might be all right doing it a
17 different way?

18 A. P.G. was not comfortable with the cash because he felt
19 that that would raise red flags and didn't look good. And he
20 thought that a money order would be the same as a check during
21 that meeting on November 7th.

22 Q. And then he realized later he was wrong, that a money
23 order is the equivalent of cash, and so he called you and
24 said, hey, I can't take a money order?

25 A. Correct. He said a money order would go into the

1 account, and it would look just like cash going into the
2 account.

3 Q. And that's when you all discussed the LLC checks,
4 correct?

5 A. Correct.

6 Q. But the LLC checks were first brought up -- LLCs and this
7 November law change -- in the very first recorded call in this
8 case, which was October 26th of 2018, right?

9 A. I'm not sure. I'd have to review the transcript on the
10 dates and what was brought up on that call.

11 Q. Do you agree with me that the first recorded call on this
12 case was on October 26th of 2018?

13 MS. GLATFELTER: Your Honor, I would just like him to
14 lay the foundation that this witness knows that call and has
15 seen that call and knows what this is about.

16 MR. C. MATTHEW RITTGERS: That's where I'm going.

17 THE COURT: I think we're on the same page. All
18 right.

19 Q. Sir, are you aware that the first recorded call in this
20 case and to Mr. Sittenfeld was on October 26, 2018?

21 A. The first -- am I a part of this call?

22 Q. It's between Mr. Ndukwe and P.G.

23 A. Oh, I have no idea when that phone call happened, or the
24 details of it in -- where I could speak to it.

25 Q. So you have no idea -- you did not know, as you sit here

1 today, that the LLC and the November law change was first
2 brought up by Mr. Ndukwe on that call? You didn't know that?
3 A. I don't know the details exactly when that was brought up
4 or who initiated it.

5 Q. All right. And so we're now in, I believe, late November
6 when you all discuss -- you tell P.G. that you're writing him
7 checks that are actually from an LLC, but it happens to be
8 from a corporation, correct?

9 A. In late November, I give him two checks that, at the
10 time, I thought they were from LLCs, and then he checked, and
11 they were actually from corporations.

12 Q. He had -- as a matter of routine, as part of his campaign
13 compliance, he had a law firm, an accountant, and other
14 compliance people that routinely go through these things, and
15 that's when he called you and said, hey, we checked, meaning
16 his team --

17 MS. GLATFELTER: Objection, Your Honor. Facts not in
18 evidence.

19 THE COURT: Agreed. Sustained.

20 Q. Mr. Sittenfeld called you and said, hey, these aren't LLC
21 checks, right?

22 A. Yes.

23 Q. And he offered to vet them for you, the new checks that
24 you were going to donate to him. He said, hey, if you want,
25 we can do that?

MILLER - CROSS

1 A. He did.

2 Q. And you told him that they were coming from your business
3 partners, correct?

4 A. Correct.

5 Q. The checks -- you talked to business partners because
6 business partners, what you're referring to are small
7 businesses which are often incorporated as LLCs, right?

8 That's your persona, that you have business partners in these
9 LLC corporations?

10 A. I don't really understand the question.

11 Q. Sorry. You told P.G. that the new checks -- that you
12 talked to your business partners and would get them LLC
13 checks. You apologized, correct, for the corporate mistake?

14 A. Correct.

15 Q. And you referenced your business partners to P.G. as
16 writing new checks for him?

17 A. I told him that it was the same \$10,000 that I would send
18 to one of my business partners and had him write a check out
19 of his -- one of his LLCs, I think, is the way it was relayed.

20 Q. You had a phone call with Mr. Sittenfeld on November 26th
21 of 2018, correct? Do you see that on the screen?

22 A. Yes. I see it.

23 Q. That's USA 19B. And you said to P.G., this is you: "So
24 I've got one of our other business partners going to write
25 them out of his, we just sent him the (inaudible)," right?

MILLER - CROSS

1 A. Correct.

2 Q. And same thing, you're talking here about these LLC
3 checks in this meeting. "Yeah, one of my, one of our other
4 business partners is going to write them out of his LLC versus
5 one of mine or Brian's companies," right?

6 A. Correct.

7 Q. And you know what bundling is in fundraising?

8 A. Yes.

9 Q. That a person can go to their universe or network of
10 friends and fundraise for a candidate by collecting checks and
11 handing them to a candidate, correct?

12 A. Sure.

13 Q. And they don't have to personally donate, the person who
14 is doing the fundraising or bundling?

15 A. The person that is doing the bundling does not have to --
16 I don't know campaign finance law enough to make a comment on
17 that.

18 Q. Okay. All right.

19 THE COURT: Mr. Rittgers, do you have a sense of is
20 it going to be a while yet, or --

21 MR. C. MATTHEW RITTGERS: Your Honor, I think I'll be
22 ten minutes.

23 THE COURT: Is that going to create a problem for any
24 member of the jury? All right. You may continue.

25 MR. C. MATTHEW RITTGERS: Thank you, Your Honor.

MILLER - CROSS

1 Q. In the 18 months of your investigation, you or Brian had
2 offered P.G. numerous invites to travel outside of Ohio,
3 correct?

4 A. Correct.

5 Q. And that was Miami, Las Vegas, Nashville, to name a few?

6 A. Correct.

7 Q. But he never traveled outside of Ohio?

8 A. He did not. Well, he never traveled outside of Ohio with
9 us.

10 Q. Sure. During that investigation, you all would meet with
11 P.G. in public establishments in the city, correct?

12 A. Correct.

13 Q. And he would introduce you to civic leaders, correct?

14 A. I'm trying to think of -- he introduced us -- anyone we
15 ran into that he knew, he would introduce us to.

16 Q. And he was not bashful about saying you guys were in town
17 as investors, real estate investors, in 435 Elm, right?

18 A. Correct.

19 Q. Do you remember being introduced to the CEO of the Duke
20 Convention Bureau?

21 A. No.

22 Q. Do you remember being introduced to Steve Leeper, the
23 head of 3CDC?

24 A. He introduced us to a couple developers, but I don't
25 remember exactly which ones they were. That was four years

MILLER - CROSS

1 ago, three and a half years ago, so...

2 Q. And when you all were out at bars and restaurants, P.G.
3 often offered to pay, and at times he actually did pay,
4 correct?

5 A. There were occasions that he offered to pay for drinks
6 and did. I could think of one or two times, at least, that he
7 paid for drinks.

8 Q. He offered Brian and you to stay at his house?

9 A. He did.

10 Q. And he even invited you over one time with several other
11 guests, including the U.S. Attorney for the Southern District
12 of Ohio, correct?

13 A. He did.

14 Q. In 2019, there was a text, I believe it was to you, where
15 P.G. had invited you to a fundraiser, it might have even been
16 at Via Vite, and he said: "Don't worry about donating. You
17 guys have been generous enough." Do you remember that?

18 A. I do.

19 Q. And during the entirety of 2019, he never asked for a
20 single donation, correct?

21 A. He never asked me for a donation in 2019, no.

22 Q. In that Columbus meeting on September 24th of 2019, P.G.
23 was already up there, correct?

24 A. He was.

25 Q. And his chief of staff, Chris Dalton, was in the meeting

MILLER - CROSS

1 the entire time, right?

2 A. I think he walked out of the room for a minute to go next
3 door and get a Coke, or something to that effect, but
4 basically he was there 90 percent of the meeting.

5 Q. And the beginning of that meeting, Vinny is not present,
6 right?

7 A. No, he is not.

8 Q. And that's -- at the beginning of the meeting is when you
9 brought up the sports betting, sports book?

10 A. I'd have to look at -- I can't remember the exact order
11 of who brought it up, but...

12 Q. We don't have a transcript of that part, so we'll have to
13 go from memory.

14 Do you remember when you said that because of the mess
15 that things had become, and you're talking about the sexual
16 assault allegations against Mr. Ndukwe, that you might -- and
17 I'll use the actual language, "Cut your fucking losses." Do
18 you remember that?

19 A. I don't remember.

20 Q. Essentially, what you were telling P.G. is that you're
21 not sure if Vinny would want to stay in Cincinnati because the
22 thing has gotten kind of messy, right?

23 A. Correct.

24 Q. And then a hypothetical conversation occurred when Vinny
25 entered the room, hypothetical being that they're zoning

MILLER - CROSS

1 around gambling, right, because gambling is not legal in Ohio?

2 A. Correct.

3 Q. You mentioned on direct the consensual sexual affair at
4 the taxpayer funded penthouse, right, with a woman?

5 A. Yes.

6 Q. And during that relationship, you used your identity as
7 an out-of-town wealthy real estate investor, that's what she
8 believed you were, correct?

9 A. I kept the same persona with every person I met.

10 Q. And that was a violation of your oath of office to the
11 FBI?

12 A. No.

13 MR. C. MATTHEW RITTGERS: May I have one moment, Your
14 Honor?

15 THE COURT: You may.

16 Q. You did not tell her your real identity, correct?

17 A. Correct.

18 Q. And so it was a lie to her, the person that you presented
19 yourself to be throughout that relationship?

20 A. I never told anyone I ever met in Cincinnati anything --
21 my name was anything other than Rob Miller.

22 Q. And your persona stayed the same, being an out-of-town
23 wealthy real estate investor, including in that relationship
24 that we just discussed?

25 A. Correct.

MILLER - CROSS/REDIRECT

1 MR. C. MATTHEW RITTGERS: No further questions.

2 THE COURT: Thank you. Any redirect?

3 MS. GLATFELTER: I do, Your Honor.

4 THE COURT: How long?

5 MS. GLATFELTER: A couple of minutes.

6 THE COURT: Oh, okay. That still falls within the
7 10 minutes that Mr. Rittgers mentioned.

8 MS. GLATFELTER: Yes. I certainly don't want to keep
9 the jury here any longer.

10 REDIRECT EXAMINATION

11 BY MS. GLATFELTER:

12 Q. Mr. Miller, you were asked some questions about the
13 November 7th meeting, right --

14 A. Yes.

15 Q. -- do you remember those questions on cross-examination.

16 Mr. Sittenfeld, did he come prepared to the meeting?

17 A. On November 7th?

18 Q. Yes.

19 A. Yes, he did.

20 Q. And that was the meeting at Nada, right?

21 A. Correct.

22 Q. Did he bring anything with him?

23 A. He brought his laptop, which he showed me slides for what
24 he showed where he thought he stood in the future mayor race
25 for the City of Cincinnati.

MILLER - REDIRECT

1 Q. So the slides were not about what a great city Cincinnati
2 is, it was about investing in the defendant?

3 A. Correct.

4 Q. Did the defendant ever give you the checks back, say
5 nope, you know what, I don't need the money, just let's forget
6 it?

7 A. No.

8 Q. Did he accept it?

9 A. Yes.

10 Q. How much money total?

11 A. Over the total course, it was \$40,000.

12 Q. During the November 7th meeting, did you talk about
13 435 Elm --

14 A. Yes, we did.

15 Q. -- at the condo. I'm sorry. Did you talk about 435 Elm
16 at the condo?

17 A. Yes, I did.

18 Q. Did you talk about \$20,000 at the condo?

19 A. Yes.

20 Q. Estimate how far apart those conversations were or,
21 actually, were they in the same conversation?

22 A. Same conversation and several minutes apart.

23 MS. GLATFELTER: One moment, Your Honor.

24 No further questions. Thank you.

25 THE COURT: Thank you, Ms. Glatfelter.

MILLER - RECROSS

1 Mr. Rittgers?

2 RECROSS-EXAMINATION

3 BY MR. C. MATTHEW RITTGERS:

4 Q. Rob, there's nothing out of the ordinary or illegal with
5 a candidate proclaiming that he thinks he's going to win the
6 election, correct?

7 A. No.

8 Q. And talking about Cincinnati being a great city, P.G.
9 actually tried to get you, I think, married off to keep you
10 here in Cincinnati, didn't he? Do you remember those
11 comments?

12 A. He, I think, at one point did offer to maybe look for a
13 wife for me, or something to that effect.

14 Q. He wanted you guys to be here in the city, right?

15 A. He at least presented that, it seemed that way.

16 Q. And he routinely talked about things that were in the
17 best interest of the city?

18 A. He did routinely talk about the best things about
19 Cincinnati, yes.

20 Q. In particular, even 435 Elm, talking about how strategic
21 and important this was for the city to get this accomplished,
22 correct?

23 A. He did talk about the importance of that project.

24 MR. C. MATTHEW RITTGERS: May I have one moment?

25 THE COURT: You may.

1 Q. The donations that you gave to P.G., they were donations
2 that you gratuitously offered to him and gave to him, correct?

3 A. I was told, through the conversation that he had with
4 Mr. Ndukwe, that he had asked for money, and this was the
5 follow-up for that. And I reference that Chin had told me
6 that he wanted \$20,000.

7 Q. But you were not aware about Mr. Ndukwe offering to be on
8 the host level of fundraising efforts for P.G.?

9 A. I was not.

10 Q. It's not odd, is it, that an elected official or
11 candidate for office, when they get a donation, to accept and
12 publicly report that donation on the FEC website?

13 MS. GLATFELTER: I'm going to object, Your Honor.
14 This is outside the scope of redirect.

15 MR. C. MATTHEW RITTGERS: No further questions, Your
16 Honor.

17 THE COURT: Very good. All right. Sir, you may step
18 down. Thank you for appearing this afternoon.

19 THE WITNESS: Thank you, sir.

20 (Witness excused.)

21 (Excerpt of proceedings concluded at 5:13 p.m.)

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C E R T I F I C A T E

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I, M. SUE LOPREATO, RMR, CRR, certify that the foregoing
is a correct transcript from the record of proceedings in the
above-entitled matter.

/s/ M. Sue Lopreato
M. SUE LOPREATO, RMR, CRR
Official Court Reporter

August 11, 2022

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EXHIBITS

GOVERNMENT EXHIBITS

Exhibit	Admitted
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DEFENSE EXHIBITS

Exhibit	Admitted
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